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UNCLAS SECTION 01 OF 02 TRIPOLI 000113

SIPDIS

SENSITIVE

DEPT FOR NEA/MAG, COMMERCE FOR NATE MASON, ENERGY FOR GINA  
ERIKSONSENSITIVE, SIPDIS

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SUBJECT: REACTION TO VICTIMS OF TERRORISM LEGISLATION

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1. (SBU) Summary: Recent legislation making it easier for plaintiffs in terrorism-related lawsuits to seize foreign government-owned assets to satisfy U.S. court judgments has caused concern among U.S. firms partnered with Libyan companies (especially in the energy sector), and provoked a sharply negative reaction from the GOL. U.S. companies are attempting to clarify and reduce their potential exposure under section 1083 of the 2008 National Defense Authorization Act (aka, "the Lautenberg Amendment"). The Libyan National Oil Corporation (NOC) has informed American oil companies that it is "their problem" to solve, and has begun requiring U.S. and other companies to conduct all operations in non-dollar denominations. A senior MFA official warned the CDA that this law could set back US-Libyan relations. The MFA has pressed European governments not to cooperate with U.S. judicial efforts to attach Libyan assets in Europe under the law. End summary.

#### OIL PRODUCING & OIL SERVICES COMPANIES AT GREATEST RISK

2. (SBU) U.S. companies participating in joint venture partnerships with Libyan national oil companies assess themselves as being at greatest risk under section 1083 of the National Defense Authorization Act. This list includes Occidental, ConocoPhillips, Marathon and Amerada Hess. These companies are involved in jointly developing Libyan oilfields and in extracting and lifting crude oil. The three U.S. partners in the Oasis Group (Marathon, ConocoPhillips and Amerada Hess, who are partnered with Libyan state firm Waha) pay \$2 million/month to the GOL in operating fees, and \$100 million/month in taxes and royalties. Company reps assess that these payments -- as well as jointly-held facilities and equipment -- would be exposed to court-ordered attachment and seizure under section 1083. U.S. oil service companies, such as Halliburton, may also be exposed, according to local company reps, and most service companies have frozen further expansion until the risks are clarified. Company reps have expressed concern to us that their GOL partner companies would view any U.S. court-ordered attachments of payments or equipment as a breach of contract, potentially leading to termination of their work in Libya.

3. (SBU) U.S. companies engaged exclusively in the exploration (as distinct from production), such as Chevron and ExxonMobil, assess themselves to be subject to less risk for the moment, since they make no regular payments to the GOL that would be subject to attachment (the signing bonuses agreed in connection with winning their Exploration and Production Sharing (EPSA)

agreements have already been paid to the GOL, and day-to-day exploration work is contracted out to largely non-GOL entities).

Nevertheless, company reps say that they are concerned about the longer-term impact of this legislation on their future plans in Libya.

#### NOC REACTS SWIFTLY

4 (SBU) Libya's National Oil Corporation (NOC) has instructed all international partner companies to cease conducting transactions in U.S. dollars. U.S. oil company contacts have privately told us that the NOC's intent was to reduce its exposure to U.S. courts, since dollar transactions are routed through the U.S. financial system. The edict has disrupted the payments system in the energy sector, which has traditionally used the dollar.

15. (SBU) The NOC's chairman, Shukri Ghanem, informed U.S. firms in late January that they were "on their own" to resolve the problems caused by the new legislation, hinting that the firms would suffer the consequences for any U.S. court-ordered disruption of their operations in Libya. U.S. company reps have told us that they believe that the NOC could find them in breach of their contractual obligations if U.S. courts disrupt their monthly payment of operational fees to the NOC.

#### GOL NOT PLEASED

16. (SBU) Senior MFA adviser Abdelati Obeidi told CDA that the GOL viewed the Act as a potentially serious setback to US-Libyan relations. He said the GOL understood that the initiative had come from the Congress, but did not understand why the Administration failed to block it, or at least its application to Libya, as it had done in the case of Iraq.

17. (SBU) Separately, according to European and ex-Soviet bloc diplomats in Tripoli, the GOL has pressed their governments not to cooperate with any U.S. judicial efforts to attachment Libyan

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assets in Europe under the Act. One European diplomat expressed surprise at the sharp edge of the Libyan demarche, noting that their GOL interlocutor had threatened unspecified consequences for the country's commercial interests in Libya if the country facilitated seizure of Libyan assets pursuant to U.S. claims.

18. (SBU) Comment: The enactment of section 1083, together with the mid-January \$6 billion U.S. court judgment against Libya in the UTA airliner case, has caused deep concern among U.S. energy companies operating in Libya and consternation within the GOL. The companies are analyzing their exposure; the GOL is misinterpreting these developments as deliberate slights or, in the words of Obeidi, "a return to the era of sanctions." Both are waiting to see how section 1083 will be applied, hoping, of course, that it will not be. End comment.

STEVENS